

Public consultation on proposed code of practice on third party funding of arbitration and mediation starts today

The Department of Justice (DoJ) today (August 30) launched a two-month public consultation to seek views on the draft Code of Practice for Third Party Funding of Arbitration and Mediation (Code).

A spokesman for the DoJ said, "The draft Code sets out the practices and standards with which third party funders of arbitration under the Arbitration Ordinance (Cap 609) and mediation under the Mediation Ordinance (Cap 620) are ordinarily expected to comply in carrying on activities in connection with third party funding of arbitration and mediation in Hong Kong."

The provisions in relation to third party funding of arbitration and mediation were enacted by the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 (Amendment Ordinance).

The Amendment Ordinance is largely based on the recommendations made by the Law Reform Commission of Hong Kong in the Report of Third Party Funding of Arbitration and published in October 2016. Amongst other things, the Amendment Ordinance provides for an authorised body to be appointed and for the authorised body to issue the Code pursuant to Part 10A of the Arbitration Ordinance and section 7A of the Mediation Ordinance to issue the Code. On May 18, 2018, the Secretary for Justice was appointed as the authorised body under section 98X(2) of the Arbitration Ordinance.

Before issuing the Code, the authorised body is required to consult members of the public. The Amendment Ordinance will be brought into operation after the Code is issued by the authorised body.

Pursuant to section 98X(1) of the Arbitration Ordinance, Mr Anthony Chow, Mr Robert Y H Pang, SC, and Mr Victor Dawes, SC, were appointed as members of an advisory body on August 24, 2018. The advisory body will be responsible for monitoring and reviewing the operation of the provisions on third party funding of arbitration and mediation, including the implementation of the Code.

The spokesman added, "It is expected that the advisory body would issue a report reviewing the operation of the Code after it has been in operation for three years and make recommendations on the way forward."

The draft Code is now available on the DoJ website (www.doj.gov.hk/eng/public/pdf/2018/tpfcode_e.pdf). The consultation will end on October 30, 2018.

Members of the public are invited to submit their comments on the draft Code to the Legal Policy Division of the Department of Justice by mail to

5/F, East Wing, Justice Place, 18 Lower Albert Road, Central, Hong Kong, or by email to tpfcode@doj.gov.hk.

[Office of The Ombudsman press conference \(with photos\)](#)

The following is issued on behalf of the Office of The Ombudsman:

The Ombudsman, Ms Connie Lau, held a press conference this morning (August 30) to announce the results of two direct investigations, namely "Food and Environmental Hygiene Department's Rental Management of Market Stalls" and "Food and Environmental Hygiene Department's Regulation of Market Stalls". The reports are available on the Office of The Ombudsman's website: ofomb.ombudsman.hk/abc/en-us/news.





[Public consultation begins on new legislation for regulating mercury, mercury compounds and mercury-added products](#)

The Environment Bureau today (August 30) released a consultation document setting out the proposed scope and approach of the new legislation for regulating mercury, mercury compounds and mercury-added products in the Hong Kong Special Administrative Region (HKSAR). The proposed legislation will allow the HKSAR to effectively fulfil its obligations under the Minamata Convention on Mercury. The consultation will end on October 5 this year.

Mercury is a naturally occurring toxic heavy metal. It has wide usage in various products and industrial processes, posing a global threat to human health and the environment. The Convention is an international treaty aiming to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds. The Convention entered into force in the People's Republic of China, including the HKSAR, on August 16, 2017. To effectively implement the Convention in the HKSAR, it is necessary to introduce the proposed legislation.

The proposed legislation will restrict the import and export of mercury; prohibit the manufacture, import, export, sale and supply of specified mercury-added products; prohibit the use of mercury or mercury compounds in specified manufacturing processes; and control the storage of mercury and mercury compounds. Exemption quantities for mercury or mercury compounds to be used for laboratory-scale research or as a reference standard are proposed in the consultation document, together with the proposed penalty levels for offences under the various provisions of the new legislation.

"The proposed legislation will enable the HKSAR to effectively discharge its obligations under the Convention, ensuring that the environment and the

health of the public are better protected from hazards arising from mercury and its compounds," a spokesman for the Environmental Protection Department (EPD) said.

The consultation document can be viewed or downloaded from the EPD's website (www.epd.gov.hk). Members of the public may also obtain a copy of the document during office hours at the following address:

Cross-Boundary and International Group
Environmental Protection Department
33/F, Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong

The EPD has arranged two consultation forums on September 19 and 27 to explain to stakeholders and the public the provisions of the new legislation in more detail. Details of the consultation forums can be found on the EPD's website and members of the public can register for attending the forums by returning the reply slip.

The Government welcomes public views, which must be submitted to the EPD as detailed in the consultation document within the consultation period, on the new legislation.

[Illegal worker jailed](#)

A Bangladeshi illegal worker holding a recognisance form was jailed at Shatin Magistrates' Courts yesterday (August 29).

Immigration Department (ImmD) investigators received a referral from the Hong Kong Police Force to further investigate an illegal employment case in August. Enforcement officers arrested a female Bangladeshi worker, aged 32, while she was working as a cleaning worker in Tuen Mun. Upon identity checking, she was found to be a holder of a recognisance form issued by ImmD, which prohibits her from taking employment, and further investigation revealed that she was a non-refoulement claimant. The investigation of an employer who was suspected of employing the illegal worker is ongoing.

The illegal worker was charged at Shatin Magistrates' Courts yesterday with taking employment after landing in Hong Kong unlawfully and remaining in Hong Kong without the authority of the Director of Immigration or while being a person in respect of whom a removal order or deportation order was in force. She pleaded guilty to the charge and was sentenced to 15 months' imprisonment.

The ImmD spokesman warned that, as stipulated in section 38AA of the Immigration Ordinance, illegal immigrants or people who are the subject of a removal order or a deportation order are prohibited from taking any employment, whether paid or unpaid, or establishing or joining in any

business. Offenders are liable upon conviction to a maximum fine of \$50,000 and up to three years' imprisonment. The Court of Appeal has issued a guideline ruling that a sentence of 15 months' imprisonment should be applied in such cases.

The spokesman reiterated that it is a serious offence to employ people who are not lawfully employable. The maximum penalty is imprisonment for three years and a fine of \$350,000. The High Court has laid down sentencing guidelines that the employer of an illegal worker should be given an immediate custodial sentence. According to the court sentencing, employers must take all practicable steps to determine whether a person is lawfully employable prior to employment. Apart from inspecting a prospective employee's identity card, the employer has the explicit duty to make enquiries regarding the person and ensure that the answers would not cast any reasonable doubt concerning the lawful employability of the person. The court will not accept failure to do so as a defence in proceedings. It is also an offence if an employer fails to inspect the job seeker's valid travel document if the job seeker does not have a Hong Kong permanent identity card. The maximum penalty for failing to inspect such a document is imprisonment for one year and a fine of \$150,000.

Under the existing mechanism, the ImmD will, as a standard procedure, conduct initial screening of vulnerable persons, including illegal workers, illegal immigrants, sex workers and foreign domestic helpers, who are arrested during any operation with a view to ascertaining whether they are trafficking in persons (TIP) victims. When any TIP indicator is revealed in the initial screening, the officers will conduct a full debriefing and identification by using a standardised checklist to ascertain the presence of TIP elements, such as threat and coercion in the recruitment phase, and the nature of exploitation. Identified TIP victims will be provided with various forms of support and assistance, including urgent interference, medical services, counselling, shelter, temporary accommodation and other supporting services. The ImmD calls on TIP victims to report crimes to the relevant departments.

Fraudulent websites related to The Bank of East Asia, Limited

The following is issued on behalf of the Hong Kong Monetary Authority:

The Hong Kong Monetary Authority (HKMA) wishes to alert members of the public to a press release issued by The Bank of East Asia, Limited on fraudulent websites, which has been reported to the HKMA. Hyperlink to the press release is available on the [HKMA website](#) for ease of reference by members of the public.

Anyone who has provided his or her personal information to the websites concerned or has conducted any financial transactions through the websites should contact the bank concerned using the contact information provided in the press release, and report to the Police or contact the Cyber Security and Technology Crime Bureau of the Hong Kong Police Force at 2860 5012.